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EXAMINER

MANSFIELD, THOMAS L

ART UNIT

PAPER NUMBER

3624

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,584	<b>Applicant(s)</b> SUGIMORI, HIDEO	
	<b>Examiner</b> THOMAS MANSFIELD	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>19 August 2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This Final Office action is in reply to the response to Office Action filed on 19 August 2008.
2. Claims 1-10 have been amended.
3. Claim 11 is new and has been added.
4. Claims 1-11 are currently pending and have been examined.

***Election/Restrictions***

5. Newly submitted Claim 11 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1–10, drawn to an operations management policy distributing method, classified in class 705, subclass 9.
  - II. Claim 11, drawn to an operations management policy distributing method, classified in class 705, subclass 9.

The inventions are distinct, each from the other because of the following reasons:

7. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as the manager is provided with a policy rating based upon a number of clients operating under the corresponding policy, overall operation time of the corresponding policy among the plurality of clients, and a number of application running on the client to be managed. See MPEP § 806.05(d).

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The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

8. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:
- (a) the inventions have acquired a separate status in the art in view of their different classification;
  - (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
  - (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
  - (d) the prior art applicable to one invention would not likely be applicable to another invention;
  - (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.
9. Because applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

**Response to Amendment**

10. The previous office action stated the Examiner had not considered the Information Disclosure Statement, a copy of a Foreign Priority Application claiming priority to the foreign filing date of 23 October 2008, and foreign reference documents cited within the Specification since these documents did not comply with 37 CFR § 1.55, 37 CFR § 1.56(c), 37 CFR § 1.98(a) (3), and 37 CFR § 198(b) submitted on 19 August 2008. However, these documents have been re-submitted with the relevant information translated into the English language and a Certified Copy of the Foreign Priority Application claiming priority to the foreign filing date of 23 October 2008 and complying with 37 CFR § 1.55, 37 CFR § 1.56(c), 37 CFR § 1.98(a) (3), and 37 CFR § 198(b) have been considered by the Examiner.
11. The rejection under 35 U.S. C. §101 in the previous office action is withdrawn in response to Applicant's statutory subject matter amendment to Claims 9 and 10.
12. The rejection under 35 U.S. C. §112 for Claims 1-6 as being indefinite in the previous office action is withdrawn in response to Applicant's amendment to improve the claimed subject matter.

**Response to Arguments**

13. Applicant's arguments filed 19 August 2008 have been fully considered but they are not persuasive.
14. Applicant submits that Brinkley et al. (Brinkley) (U.S. 5,963,919) does not teach or suggest in amended Claim 1: (1) *selection by the manager of at least one operations management policy* [see Remarks page 8, last paragraph], (2) *inventory based upon one of hardware and software of a client to be managed* [see Remarks page 9, first paragraph].

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15. Applicant submits that Brinkley in view of Hoffman et al. (Hoffman) (U.S. 7,120,596) does not teach or suggest in amended Claim 6: (3) *setting for each operations management policy whether or not a deletion is allowable, wherein said step of acquiring said operations management policies necessarily acquires those operations management policies set as non-deletable policies regardless of their usage frequency* [see Remarks page 11, last paragraph through page 12, first paragraph].
16. With regard to argument (1), the Examiner respectfully disagrees. Brinkley teaches *selection by the manager of at least one operations management policy* (system **100** is a single management system capable of implementing multiple inventory management strategies to best suit a particular inventory portfolio, system **100** simulates an inventory manager's manual decision process) (see at least column 3, line 53 through column 4, line 11).
17. With regard to argument (2), the Examiner respectfully disagrees. Brinkley teaches *inventory (inventory) based upon one of hardware and software (inventory item, stock in inventory, products, finished good, demand items) of a client (customer) to be managed* (see at least column 4, lines 35-61 and column 5, lines 40-46).
18. With regard to argument (3), the Examiner respectfully disagrees. Brinkley in view of Hoffman teaches setting for each operations management policy (security management solution) whether or not a deletion is allowable (add/delete privilege), wherein said step of acquiring said operations management policies necessarily acquires those operations management policies set as non-deletable policies regardless of their usage frequency (In order to save time in user setup, a user should be able to be assigned a role type that carries a certain number of privileges with it) (see at least column 70, lines 6-9 and column 103, line 33 through column 104, line 19).

***Claim Rejections - 35 USC § 102***

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brinkley et al (Brinkley) (U.S. 5,963,919).

With regard to Claims 1, 7, and 9, Brinkley teaches *an operations management policy distributing method, apparatus, and program for a computer network (computer network) system having a plurality of clients, comprising (inventory management system, MISER (Merchandise Inventory Strategy Evaluation Rules) program 250)*: (see at least column 2, lines 37-60 and column 3, lines 36-53, and column 14, lines 31-32):

- *upon receiving inventory information specifying an inventory inventory (inventory) based upon one of hardware and software (inventory item, stock in inventory, products, finished good, demand items) of a client (customer) to be managed (see at least column 4, lines 35-61 and column 5, lines 40-46), retrieving from a database (inventory stocking scenario) operations management policies (inventory management policy, Who, When, How, and How much) corresponding to the specified inventory (particular inventory item) (see at least column 4, lines 21-36) and creating a policy list detailing operations management policies suited to the inventories specified by said inventory information (lists primary characteristics of inventory items suitable for the particular strategy and secondary data required for inventory management) (see at least column 5, line 16 through column 7, line 50).*

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- *sending back the created policy list to* (Inventory portfolios are generally stored in inventory database **240** as a separate input file) (see at least column 5, lines 62-63).
- *upon receiving selection information indicating the selection by the manager of at least one operations management policy* (system **100** is a single management system capable of implementing multiple inventory management strategies to best suit a particular inventory portfolio, system **100** simulates an inventory manager's manual decision process) (see at least column 3, line 53 through column 4, line 11) *from said created policy list, retrieving from said database* (inventory database **240**) *and acquiring the operations management policy specified by said selection information* (After the input file is properly formatted for MISER program **250**, the user may specify input parameters about how the user wants to use the information in the input file) (see at least column 8, lines 46).
- *sending back the retrieved operations management policy to the client to be managed* (computer 110 runs MISER program 250 to create an output file) (see at least column 8, lines 39-40).

With regard to Claim 2, Brinkley teaches:

- *appropriately storing said inventory information in a database* (Inventory portfolios are generally stored in inventory database **240** as a separate input file) (see at least column 5, lines 62-63)
- *extracting a difference between said inventory information and the inventory information stored in said database when said inventory information is received* (stratifies the portfolio), *wherein said step of creating a policy list, retrieves from said database and creates a policy list suited to the inventory specified by said difference* (comparing various input parameters of the item to cutoff values) (see at least column 8, lines 47-64).



With regard to Claim 3, Brinkley teaches:

- *appropriately storing in a database usage (usage) frequencies of the operations management policies applied to said client to be managed (Replenishment-To-Order (Kanban), Warehouse Replenishment (EOQ)) (see at least column 5, line 43 through column 6, line 35).*
- *appending the usage frequencies stored in said database to each of the operations management policies detailed in said policy list ("Other" demand insufficient to cover usage (column 5, line 59), How: Per usage or continuous review) (see at least column 6, line 17).*

With regard to Claim 4, Brinkley teaches *the number of references (How much), the operating time (Periodic, Per-Use, and Continuous) and the number of applications of each of the operations management policies applied to said client to be managed (economic order quantity) (see at least column 4, line 62 through column 5, line 20).*

With regard to Claims 5, 8, and 10, Brinkley teaches *an operations management (inventory management system) policy distributing method, apparatus, and program for a computer network system having a plurality of clients, comprising (see at least column 2, lines 37-60 and column 3, lines 36-53):*

- *upon receiving inventory information specifying an inventory inventory (inventory) based upon one of hardware and software (inventory item, stock in inventory, products, finished good, demand items) of a client (customer) to be managed (see at least column 4, lines 35-61 and column 5, lines 40-46), retrieving from a database (inventory stocking scenario), operations management policies (inventory management policy, Who, When, How, and How much) corresponding to the specified inventory (particular inventory item) (see at least column 4, lines 21-36) and creating a policy list detailing operations management policies suited to the*

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*inventories specified by said inventory information* (lists primary characteristics of inventory items suitable for the particular strategy and secondary data required for inventory management) (see at least column 5, line 16 through column 7, line 50).

- *sending back the acquired operations management policy* (Inventory portfolios are generally stored in inventory database **240** as a separate input file) (see at least column 5, lines 62-63).

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkley as applied to claims 1-5 and 7-10 above, and further in view of Hoffman et al (Hoffman) (U.S. 7,120,596).

With regard to Claim 6, Brinkley teaches methods above in Claims 1-5 and 7-10. Brinkley does not specifically teach *setting for each operations management policy whether or not the deletion is allowable, wherein said step of acquiring said operations management policy necessarily acquires those operations management policies set as non-deletable policies regardless of their usage frequency*. Hoffman teaches *setting for each operations management policy (security management solution) whether or not the deletion is allowable (add/delete privilege), wherein said step of acquiring said operations management policy necessarily acquires those operations management policies set as non-deletable policies regardless of their usage frequency* in analogous art of supply chain management for the purposes of, "An access policy needs to define access rights and privileges to protect assets from loss or disclosure by specifying acceptance use guidelines for users, operations staff, and management" (see at least column 70, lines 6-9 and column 103, line 33 through column 104, line 19).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the access policy as taught by Hoffman with the inventory management strategy method of Brinkley. One of ordinary skill in the art would have been motivated to do so for the benefit of a secure and protected database of resources implemented accurately by appropriate persons within management having specific access rights (Hoffman, column 70, lines 6-42 and column 103, line 33 through column 104, line 19).

- 23. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

- 24.** The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Yang et al. (U.S. Pub. No. 2002/0169625) discloses a software licensing management system.
- Wyman (U.S. 5,745,879) discloses a method and system for managing execution of licensed programs.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS MANSFIELD whose telephone number is (571)270-1904. The examiner can normally be reached on Monday-Thursday 8:30 am-6 pm, alt. Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on 571-272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. M./  
Examiner, Art Unit 3624  
Thomas Mansfield

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3624